

Application No. 10/750027
Page 5

Amendment
Attorney Docket No. E30.2N-8146-US11

Remarks

This Amendment is being filed in response to the Final Office Action as mailed on September 20, 2005. Reconsideration of the application as amended herein is respectfully requested.

Applicant submits this amendment merely adopts the Examiner's suggestions, presents claims in better form for consideration on appeal, removes issues from appeal, or only requires a cursory review by the Examiner in compliance with 37 C.F.R. §1.116. Applicant presents amended claims herein and traverses the Examiner's rejection in so far as it may be applied against the amended claims. In order to forward prosecution, Applicant has amended the language of claims 50 and 62 herein.

In the Office Action on page 2, the Examiner rejected claims 50, 52-57, and 64-76 asserting that these claims were anticipated under 35 U.S.C. §102(b) by Montalan 5,490,049. Applicant respectfully asserts that Montalan '049 does not teach applicant's amended claimed culminator assembly as depicted in figure 31. Specifically, Montalan '049 does not teach an integral and substantially solid culminator assembly having the elements as claimed in amended claims 50 and 62 herein. Applicant respectfully requests that the examiner withdraw the rejection of claims 50, 52-57, and 64-76 pursuant to 35 U.S.C. §102(b). Applicant respectfully asserts that claims 50-71 are not anticipated and are allowable over Montalan '049. Applicant respectfully requests the reconsideration of applicant's claims as amended herein.

On page 4 the examiner rejected claims 51 and 63 asserting 35 U.S.C. §103 in view of Montalan '049. In addition, the examiner rejected claims 58-61 and 68-71 asserting 35 U.S.C. §103 over Montalan '049 in view of Meinershagen 4,556,862.

Applicant respectfully asserts that there is no suggestion, teaching, and/or disclosure in the Montalan '049 reference to provide the features of Applicant's culminator assembly of claims 50-71 herein.

The Montalan '049 reference is directed to a base 100 which co-operates with a cover 200 to provide an LED signaling light for the rear end of a motor vehicle, to perform a plurality of lighting functions (side-marker light, brake light, turn indicator light, and fog light) in very specific zones. The base 100 and cover 200 are curved so as to match the shape of the rear

Application No. 10/750027
Page 6

Amendment
Attorney Docket No. E30.2N-8146-US11

corner region of the vehicle (a corner-hugging light). In addition, the Montalan '049 reference teaches the use of Fresnel Lenses to provide a desired type of light output upon illumination of the LED's.

The Montalan '049 reference fails to suggest, teach, and/or disclose the use of an integral substantially solid culminator assembly having aligned reflector cavities where each aligned reflector cavity is adapted to at least partially receive a light emitting diode.

Applicant respectfully asserts that Applicant's claims 50-71 as amended herein are allowable over the Montalan '049 reference. A rejection pursuant to 35 U.S.C. §103 is improper if the references as relied upon do not suggest the desirability and thus the obviousness of the claimed invention. In addition, a claim under examination must be viewed without the benefit of hindsight vision afforded by the cited references.

The Meinershagen '862 reference teaches the use of supplemental lighting only proximate to the front and rear of a vehicle. The purpose of the Meinershagen '862 patent and/or the problem to be solved by the '862 patent, is to supplement the illumination of the left and right turn signals, the brake lights, and/or the slow moving traffic signal through the hazard light of a standard passenger vehicle. The above-identified problem is taught to be solved by the placement of non-LED light sources along only the front and back of the vehicle and the electrical connection of a flasher circuit to the turn signal circuits, the brake circuits, the hazard circuits, and/or the parking light circuit of the vehicle. Supplemental illumination is provided upon a vehicle operatively engaging any of the turn signals, hazard signal, brake light signal, and/or parking light circuits.

The Meinershagen '862 patent does not mention or enable the use of an integral substantially solid culminator assembly having aligned reflector cavities. In addition, the '862 patent does not mention or enable the use of light emitting diode light sources.

The Montalan '049 reference individually and/or in combination with the Meinershagen '862 reference does not provide a suggestion, teaching, or disclosure as related to the provision and use of an integral substantially solid culminator assembly having aligned reflector cavities for use in conjunction with light emitting diode light sources. No suggestion or teaching is provided in either the Montalan '049 and/or Meinershagen '862 references for combination with each other, or with any other alleged prior art, to provide Applicant's claimed

Application No. 10/750027
Page 7

Amendment
Attorney Docket No. E30.2N-8146-US11

invention herein.

No suggestion or teaching is provided in the Montalan '049 reference to combine with Meinershagen '862, or any other prior art, to provide Applicant's invention herein. In addition, Montalan '049 and Meinershagen '862 both are focused solely on the problem of enhancing brake light visibility, turn signal visibility and/or standard vehicle hazard light visibility. Neither the Montalan '049 nor the Meinershagen '862 reference provide any teaching whatsoever with respect to an integral substantially solid culminator assembly comprising aligned reflector cavities.

Neither the Montalan '049 or Meinershagen '862 references provide enabling disclosure with respect to the applicants claims. The devices of Montalan '049 and Meinershagen '862 would require complete reengineering and redesign to teach or suggest the features of Applicant's claims 50-71 herein.

The Court of Appeals for the Federal Circuit has stated that the case law makes clear that the best defense against the subtle, but powerful, attraction of hindsight based obviousness analysis is the rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references, and that one of ordinary skill in the art would have been motivated to select the references and combine them, and it was error to not elucidate any factual teaching, suggestions, or incentives from the prior art that showed the propriety of the combination. *In re Dembiczak*, 50 U.S.P.Q.2d 1614 (CAFC 1999).

For the foregoing reasons, Applicant respectfully requests reconsideration and allowance of claims 50-71 as amended herein. Applicant respectfully asserts the claims herein are now in condition for allowance. Early action to that effect is earnestly solicited. Should the Examiner have any questions concerning this Amendment, then the Examiner is cordially invited to contact the undersigned by telephone, facsimile, and/or E-mail at the below identified addresses.

If an extension of time is required to make this response timely and no separate petition is enclosed, Applicant hereby petitions for an extension of time sufficient to make the response timely. In the event that this response requires the payment of government fees and payment is not enclosed, please charge Deposit Account No. 22-0350.

Application No. 10/750027
Page 8

Amendment
Attorney Docket No. E30.2N-8146-US11

Formalities

If an extension of time is required to make this response timely and no separate petition is enclosed, Applicant hereby petitions for an extension of time sufficient to make the response timely. In the event that this response requires the payment of government fees and payment is not enclosed, please charge Deposit Account No. 22-0350.

Conclusion

It is believed that claims 50-71 in the present application are in condition for allowance in view of the foregoing. Applicant respectfully requests reconsideration of the claims herein and that the rejections be withdrawn and the claims be allowed. The Applicant respectfully requests that the Examiner enter the amendment which Applicant believes puts the application in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: November 16, 2005

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